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STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of:

LUNAS CONSTRUCTION CLEAN-UP,
INC.

TPID NO: 1599574-01

RESPONDENT.

STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ

AGENCY No: 2011-011129-ADC

INTRODUCTION

The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation) are the Department of Resources Recycling and Recovery and LUNAS CONSTRUCTION CLEAN-UP, INC. (RESPONDENTS). The California Integrated Waste Management Board (CIWMB) is now the Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section 40401(a)(1). The ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Complaint) was served on RESPONDENT on March 5, 2011. RESPONDENT requested a hearing on March 6, 2012. A hearing was originally scheduled for September 12,

2012, in Los Angeles, California, but the California Office of Administrative Hearings (OAH) graciously granted the parties a continuance of the hearing until September 14, 2012.

In order to avoid the costs and uncertainties of litigation, CALRECYCLE and RESPONDENT hereby stipulate to the following Factual Findings, Conclusions of Law, and Order:

STIPULATED FACTUAL FINDINGS

1. CALRECYCLE has authority to regulate and conduct enforcement actions regarding Waste and Used Tire Haulers (hauler) within the State of California under PRC section 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. RESPONDENT has been registered to haul waste and used tires in California by CALRECYCLE since 2011. A copy of California's waste tire hauler laws and regulations were provided to RESPONDENT each year along with its renewed Waste and Used Tire Hauler Registration.

3. PRC section 42951(b) requires a registered waste and used tire hauler to transport waste or used tires only to a facility that is permitted, excluded, exempted, or otherwise authorized by the board, by statute, or by regulation, to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

4. 14 CCR section 18420(a)(3) requires any person storing 500 or more waste tires to obtain a waste tire facility permit.

5. 14 CCR section 18460.2(f) prohibits waste tire haulers from transporting used or waste tires to an end-use facility not legally authorized to accept waste tires.

6. During the time between January 4, 2011 and December 29, 2011, RESPONDENT transported 102 loads of 500 or more used or waste tires to a waste tire facility (WTF) located at 23802 Pine Street, Lot-2 Newhall, CA (the site).

7. At no time between January 4, 2011 and December 29, 2011, was a waste tire facility permit issued or in effect for the site.

1 8. According to PRC section 42961.5(c)(2), any waste and used tire hauler hauling
2 waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof,
3 shall complete the California Uniform Waste and Used Tire Manifest as required by the board.
4 The waste and used tire hauler shall provide the manifest to the waste or used tire facility
5 operator who receives the waste or used tires for handling, altering, storage, disposal, or any
6 combination thereof. Each waste and used tire hauler shall submit to the board, on a quarterly
7 schedule, a legible copy of each manifest. The copy submitted to the board shall contain the
8 signatures of the generator and the facility operator.

9 9. 14 CCR section 18460.2(b) requires every waste and used tire hauler to
10 complete Manifest Forms for each pick-up or delivery of any used or waste tires in accordance
11 with the directions set forth on CALRECYCLE Form number 203.

12 10. 14 CCR section 18459(c)(1) requires haulers to comply with the manifest system
13 requirements by completing CALRECYCLE Form number 203.

14 11. During the time between June 1, 2011 and June 30, 2011, RESPONDENT
15 submitted CTL's with errors and omissions on at least seven (7) occasions.

16 12. During an inspection of the site on May 31, 2011, and documented in Waste Tire
17 Survey and Inspection Report (Inspection Report) number I1-1168835, Inspector Vance Tracy
18 observed more than 10,000 waste tires.

19 13. On August 9, 2011, Inspector Michael Payan, from CALRECYCLE's Tire Hauler
20 Compliance Unit conducted an audit of the Manifest Forms submitted to CALRECYCLE
21 between January 1, 2011 and May 31, 2011, by RESPONDENT. The audit revealed that the
22 operator transported 500 or more waste and used tires to the site on at least thirty-five (35)
23 separate occasions, each time creating, and delivering to, an unpermitted WTF in violation of
24 PRC section 42951(b) and 14 CCR section 18460.2(f). In Table 1 below are those shipments
25 of waste/used tires.

Table 1

Comprehensive Trip Log	Load Date	Hauler Name	Delivery PTE	Facility Name
4198296-C	01/04/2011	Lunas Construction	578	Lunas Construction - Newhall site
4198295-C	01/06/2011	Lunas Construction	796	Lunas Construction - Newhall site.
4198288-C	01/07/2011	Lunas Construction	562	Lunas Construction - Newhall site
4198283-C	01/10/2011	Lunas Construction	521	Lunas Construction - Newhall site
4198228-C	01/12/2011	Lunas Construction	586	Lunas Construction - Newhall site
4175916-C	01/25/2011	Lunas Construction	1560	Lunas Construction - Newhall site
4182054-C	01/26/2011	Lunas Construction	1600	Lunas Construction - Newhall site
4182011-B	01/31/2011	Lunas Construction	1028	Lunas Construction - Newhall site
4182014-B	02/01/2011	Lunas Construction	707	Lunas Construction - Newhall site
4182088-C	02/07/2011	Lunas Construction	1554	Lunas Construction - Newhall site.
4207746-C	02/08/2011	Lunas Construction	592	Lunas Construction - Newhall site
4207728-B	02/18/2011	Lunas Construction	1280	Lunas Construction - Newhall site
4207714-A	02/21/2011	Lunas Construction	545	Lunas Construction - Newhall site
4207795-C	02/21/2011	Lunas Construction	570	Lunas Construction - Newhall site.
4207800-A	02/23/2011	Lunas Construction	614	Lunas Construction - Newhall site
4182027-B	02/23/2011	Lunas Construction	700	Lunas Construction - Newhall site
4207792-C	02/26/2011	Lunas Construction	2980	Lunas Construction - Newhall site
4207765-A	02/28/2011	Lunas Construction	544	Lunas Construction - Newhall site
4207702-C	03/01/2011	Lunas Construction	771	Lunas Construction - Newhall site.

1	4233947-C	03/16/2011	Lunas Construction	754	Lunas Construction - Newhall site
2					
3	4263875-C	03/16/2011	Lunas Construction	618	Lunas Construction - Newhall site
4	4263837-C	03/21/2011	Lunas Construction	1338	Lunas Construction - Newhall site
5	4263856-C	03/24/2011	Lunas Construction	1021	Lunas Construction - Newhall site.
6					
7	4263995-C	03/31/2011	Lunas Construction	962	Lunas Construction - Newhall site
8	4263999-C	04/02/2011	Lunas Construction	505	Lunas Construction - Newhall site
9	4251202-B	04/06/2011	Lunas Construction	1404	Lunas Construction - Newhall site
10	4251206-B	04/11/2011	Lunas Construction	1617	Lunas Construction - Newhall site.
11					
12					
13	4263977-C	04/11/2011	Lunas Construction	770	Lunas Construction - Newhall site
14	4263922-C	04/21/2011	Lunas Construction	715	Lunas Construction - Newhall site
15	4251216-B	04/21/2011	Lunas Construction	1279	Lunas Construction - Newhall site
16	4251217-B	04/21/2011	Lunas Construction	1253	Lunas Construction - Newhall site
17					
18	4263911-C	04/29/2011	Lunas Construction	530	Lunas Construction - Newhall site.
19	4233865-C	05/16/2011	Lunas Construction	636	Lunas Construction - Newhall site
20	4233943-B	05/16/2011	Lunas Construction	1700	Lunas Construction - Newhall site
21	4233950-B	05/18/2011	Lunas Construction	866	Lunas Construction - Newhall site

14. During an inspection of the site on August 10, 2011, and documented in Inspection Report number I1-1134771 Inspector Steve Dolan, for the CALRECYCLE Tire Enforcement-South Branch observed 2,660 waste tires onsite, in violation of PRC section 42834 and 14 CCR section 18420.

15. On September 2, 2011, Inspector Payan conducted another audit of the Manifest Forms submitted to CALRECYCLE between June 1, 2011 and August 10, 2011, by

RESPONDENT. This audit revealed that the operator transported more than 500 waste and used tires to the site on at least twenty-nine (29) more occasions, each time creating and delivering waste and used tires to an unpermitted WTF, in violation of PRC section 42951(b) and 14 CCR section 18460.2(f). In Table 2 below are those shipments.

Table 2

Comprehensive Trip Log	Load Date	Hauler Name	Delivery PTE	Facility Name
4251223-B	06/01/2011	Lunas Construction	1380	Lunas Construction - Newhall site
4182043-B	06/01/2011	Lunas Construction	1280	Lunas Construction - Newhall site
4251386-B	06/08/2011	Lunas Construction	1420	Lunas Construction - Newhall site
4251393-C	06/10/2011	Lunas Construction	655	Lunas Construction - Newhall site
4251376-C	06/11/2011	Lunas Construction	858	Lunas Construction - Newhall site
4233804-C	06/14/2011	Lunas Construction	706	Lunas Construction - Newhall site
4251227-C	06/16/2011	Lunas Construction	1314	Lunas Construction - Newhall site
4251230-B	06/17/2011	Lunas Construction	1298	Lunas Construction - Newhall site
4251229-B	06/17/2011	Lunas Construction	1171	Lunas Construction - Newhall site
4251369-B	06/17/2011	Lunas Construction	1461	Lunas Construction - Newhall site
4251303-B	06/24/2011	Lunas Construction	1393	Lunas Construction - Newhall site
4408041-C	06/27/2011	Lunas Construction	572	Lunas Construction - Newhall site
4408009-B	07/01/2011	Lunas Construction	1520	Lunas Construction - Newhall site
4408027-C	07/01/2011	Lunas Construction	527	Lunas Construction - Newhall site
4407990-B	07/11/2011	Lunas Construction	1443	Lunas Construction - Newhall site
4251224-B	07/14/2011	Lunas Construction	1627	Lunas Construction - Newhall site

1	4407978-C	07/15/2011	Lunas Construction	658	Lunas Construction - Newhall site
2					
3	4407968-C	07/18/2011	Lunas Construction	764	Lunas Construction - Newhall site
4	4251233-B	07/19/2011	Lunas Construction	1558	Lunas Construction - Newhall site
5	4251234-B	07/19/2011	Lunas Construction	1357	Lunas Construction - Newhall site
6					
7	4408098-B	07/21/2011	Lunas Construction	1439	Lunas Construction - Newhall site
8	4408056-C	07/26/2011	Lunas Construction	694	Lunas Construction - Newhall site
9	4407996-C	07/29/2011	Lunas Construction	699	Lunas Construction - Newhall site
10	4408065-A	07/30/2011	Lunas Construction	1000	Lunas Construction - Newhall site
11	4408131-B	08/02/2011	Lunas Construction	4800	Lunas Construction - Newhall site
12					
13					
14	4408161-B	08/03/2011	Lunas Construction	1487	Lunas Construction - Newhall site
15	4408159-B	08/03/2011	Lunas Construction	4800	Lunas Construction - Newhall site
16	4408156-C	08/03/2011	Lunas Construction	1430	Lunas Construction - Newhall site
17					
18	4251250-B	08/10/2011	Lunas Construction	1289	Lunas Construction - Newhall site

16. On September 13, 2011, Mr. Payan conducted a follow-up audit of the Manifest Forms submitted to CALRECYCLE between June 1, 2011 and June 30, 2011, by RESPONDENT, to review RESPONDENT's compliance with the requirements for filling out and submitting a Manifest Form in accordance with PRC section 42961.5 and 14 CCR sections 18459 and 18460.2. The audit revealed that the operator submitted Manifest Forms that failed to meet the requirements set forth in 14 CCR sections 18459 and 18460.2, as shown in Table 3 below.

Table 3

CTL Receipt Number	Violation	Date of Violation
4251318 (Header)	Incorrect decal number	June 4, 2011
4251318-C	Missing pickup/delivery, load date, load type, load amount, Facility TPID, Facility name and business address	
4251387-A	Missing Facility TPID	June 7, 2011
4233806-B	Incorrect Facility TPID	June 11, 2011
4251321-B	Incorrect Facility TPID	June 11, 2011
4251245-A	Incorrect Facility TPID	June 14, 2011
4251245-B	Missing load type	
4251358-B	Incorrect Facility TPID	June 22, 2011
4251341-B	Missing pickup/delivery	June 27, 2011

17. On or about January 25, 2012, Keith Cambridge, Acting Section Manager for CALRECYCLE, performed an audit of Manifest Forms submitted to CALRECYCLE from RESPONDENT for the time period from August 11, 2011 through December 29, 2011. Mr. Cambridge discovered that on 38 separate occasions RESPONDENT transported 500 or more waste or used tires to the site, thereby creating and delivering to an unpermitted facility in violation of PRC section 42951(b) and 14 CCR section 14 CCR section 18460.2. The following Table 4 lists those violations:

CTL Form Number	Load Date	Hauler Name	Deliveries (PTEs)	Facility Name
4408100-B	08/11/2011	Lunas Construction Clean-Up, Inc.	1484	Lunas Construction Clean-Up, Inc.
4251266-B	08/17/2011	Lunas Construction Clean-Up, Inc.	900	Lunas Construction Clean-Up, Inc.

1	4408223-B	08/18/2011	Lunas Construction Clean-Up, Inc.	1572	Lunas Construction Clean-Up, Inc.
2			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
3	4408102-C	08/18/2011	Lunas Construction Clean-Up, Inc.	524	Lunas Construction Clean-Up, Inc.
4	4408284-A	08/19/2011	Lunas Construction Clean-Up, Inc.	2546	Lunas Construction Clean-Up, Inc.
5	4408107-C	08/19/2011	Lunas Construction Clean-Up, Inc.	531	Lunas Construction Clean-Up, Inc.
6	4251226-B	08/20/2011	Lunas Construction Clean-Up, Inc.	2000	Lunas Construction Clean-Up, Inc.
7			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
8	4251269-B	08/24/2011	Lunas Construction Clean-Up, Inc.	852.5	Lunas Construction Clean-Up, Inc.
9	4408249-C	08/25/2011	Lunas Construction Clean-Up, Inc.	551	Lunas Construction Clean-Up, Inc.
10	4408289-B	08/26/2011	Lunas Construction Clean-Up, Inc.	2331	Lunas Construction Clean-Up, Inc.
11	4408289-B	08/26/2011	Lunas Construction Clean-Up, Inc.	2331	Lunas Construction Clean-Up, Inc.
12	4251257-B	08/28/2011	Lunas Construction Clean-Up, Inc.	830	Lunas Construction Clean-Up, Inc.
13			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
14	4408205-B	08/29/2011	Lunas Construction Clean-Up, Inc.	1496	Lunas Construction Clean-Up, Inc.
15	4251271-B	08/29/2011	Lunas Construction Clean-Up, Inc.	1405	Lunas Construction Clean-Up, Inc.
16			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
17	4251259-B	08/30/2011	Lunas Construction Clean-Up, Inc.	1213	Lunas Construction Clean-Up, Inc.
18	4251300-B	09/01/2011	Lunas Construction Clean-Up, Inc.	1605	Lunas Construction Clean-Up, Inc.
19	4408510-A	09/08/2011	Lunas Construction Clean-Up, Inc.	640	Lunas Construction Clean-Up, Inc.
20			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
21	4408240-C	09/08/2011	Lunas Construction Clean-Up, Inc.	534	Lunas Construction Clean-Up, Inc.
22	4251268-B	09/10/2011	Lunas Construction Clean-Up, Inc.	790	Lunas Construction Clean-Up, Inc.
23	4408517-C	09/10/2011	Lunas Construction Clean-Up, Inc.	642	Lunas Construction Clean-Up, Inc.
24	4251297-B	09/13/2011	Lunas Construction Clean-Up, Inc.	1000	Lunas Construction Clean-Up, Inc.
25			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
26	4408587-C	09/13/2011	Lunas Construction Clean-Up, Inc.	565	Lunas Construction Clean-Up, Inc.
27	4408559-C	09/21/2011	Lunas Construction Clean-Up, Inc.	604	Lunas Construction Clean-Up, Inc.
28	4408563-C	10/03/2011	Lunas Construction Clean-Up, Inc.	1228	Lunas Construction Clean-Up, Inc.

1	4408696-C	10/06/2011	Lunas Construction Clean-Up, Inc.	644	Lunas Construction Clean-Up, Inc.
2			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
3	4408592-C	10/07/2011	Lunas Construction Clean-Up, Inc.	715	Lunas Construction Clean-Up, Inc.
4	4408641-C	10/12/2011	Lunas Construction Clean-Up, Inc.	573	Lunas Construction Clean-Up, Inc.
5	4408650-B	10/15/2011	Lunas Construction Clean-Up, Inc.	2250	Lunas Construction Clean-Up, Inc.
6	4408664-A	10/22/2011	Lunas Construction Clean-Up, Inc.	699	Lunas Construction Clean-Up, Inc.
7			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
8	4251256-B	10/27/2011	Lunas Construction Clean-Up, Inc.	1342	Lunas Construction Clean-Up, Inc.
9	4408747-C	11/08/2011	Lunas Construction Clean-Up, Inc.	518	Lunas Construction Clean-Up, Inc.
10	4408738-B	11/10/2011	Lunas Construction Clean-Up, Inc.	1027	Lunas Construction Clean-Up, Inc.
11	4408818-C	11/15/2011	Lunas Construction Clean-Up, Inc.	566	Lunas Construction Clean-Up, Inc.
12			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
13	4251282-B	11/16/2011	Lunas Construction Clean-Up, Inc.	1540	Lunas Construction Clean-Up, Inc.
14	4182031-B	12/06/2011	Lunas Construction Clean-Up, Inc.	1805	Lunas Construction Clean-Up, Inc.
15	4251296-B	12/09/2011	Lunas Construction Clean-Up, Inc.	1061	Lunas Construction Clean-Up, Inc.
16					
17	4408913-C	12/28/2011	Lunas Construction Clean-Up, Inc.	507	Lunas Construction Clean-Up, Inc.
18			Lunas Construction Clean-Up, Inc.		Lunas Construction Clean-Up, Inc.
19	4467055-B	12/29/2011	Lunas Construction Clean-Up, Inc.	1145	Lunas Construction Clean-Up, Inc.

STIPULATED CONCLUSIONS OF LAW

18. RESPONDENT violated PRC 42951 (b) and 14 CCR section 18460.2(f) on at least 102 separate occasions, by transporting waste tires to a facility that was not permitted, excluded, exempted, or otherwise authorized by the (Department), by statute, or by regulation, to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

1 19. RESPONDENT violated PRC section 42961.5 and 14 CCR sections 18459 and
2 18460.2(b) on at least seven (7) separate occasions by submitting Manifest Forms with errors
3 or omissions.

4
5 **STIPULATED ORDER**

6 20. Based on the facts above, and taking into account the nature, circumstances,
7 extent and gravity of the violations, the history of violations of the same or similar nature, the
8 extent to which RESPONDENT has cooperated with CALRECYCLE in remediating the
9 violations, and RESPONDENT's ability to pay, RESPONDENT and CALRECYCLE stipulate to
10 the following terms and conditions in full and complete settlement of this matter:

11 (a) Pursuant to the terms and conditions of this Stipulation, and subject to the
12 limitations hereunder, RESPONDENT stipulate to an administrative penalty against
13 RESPONDENT and in favor of CALRECYCLE in the sum of \$105,500.00 for the violations set
14 forth in this Stipulation. Payment of the penalty shall be satisfied in the following manner:

15 i) RESPONDENT shall pay \$35,000.00 to CALRECYCLE in accordance
16 with the following:

17 1. RESPONDENT shall pay to CALRECYCLE the sum of \$400.00 each
18 month with the first payment due on October 1, 2012, for the duration of the
19 abeyance period.

- 20 a. All payments shall be made to CALRECYCLE, Attn: Esther Gallegos, at
21 P.O. Box 4025, Sacramento, CA 95812-4025, or to such other person
22 and/or place as CALRECYCLE or its agent may from time to time
23 designate in writing. Payments may be remitted in the form of check,
24 cashier's check, money order, cash, or credit card.
- 25 b. If any payment by RESPONDENT hereunder is not remitted by
26 RESPONDENT to said addressee by the due date, or a date later issued
27 by CALRECYCLE, and if RESPONDENT fails to cure the missed
28 payment(s) within twenty (20) days of said missed payment,

- 1 RESPONDENT shall be found in partial default of the stipulation.
- 2 2. RESPONDENT shall pay off the portion of the \$35,000.00 amount not
- 3 covered by the \$400 monthly installments by either of the following
- 4 a. Monetary payments made in accordance with paragraph 20(a)(i)(1) above;
- 5 or
- 6 b. Providing Services to a local public entity in California by cleaning up solid
- 7 waste at a reasonably discounted rate. RESPONDENT shall follow the
- 8 required procedures set forth by the local public entity or California state
- 9 contracting laws in bidding on or contracting for said clean up.
- 10 i. RESPONDENT shall provide CALRECYCLE with
- 11 documentation of any bid offered to the public entity and the
- 12 corresponding contract signed by both RESPONDENT and the
- 13 public entity.
- 14 ii. CALRECYCLE shall review the bid and the contract to
- 15 determine that the discounted rate was reasonable in
- 16 comparison to the tonnage of solid waste cleaned up or the
- 17 hours worked by RESPONDENT.
- 18 iii. If CALRECYCLE determines that the discounted rate was
- 19 reasonable, the amount discounted, or another amount
- 20 determined by CALRECYCLE, shall be credited toward the
- 21 \$35,000.00 still owed by RESPONDENT under this Stipulation.
- 22 Up to \$11,000.00, but no more than \$11,000.00, worth of
- 23 services performed by RESPONDENT shall be credited toward
- 24 the \$35,000.00 amount owed to CALRECYCLE.
- 25 iv. When RESPONDENT places a bid to provide a clean-up
- 26 service to fulfill the terms of the Stipulation, RESPONDENT may
- 27 state that the discounted price is offered in order to fulfill a
- 28 settlement. However, RESPONDENT shall not state, imply, or

1 otherwise indicate that it is discounting the price to fulfill an
2 obligation or settlement owed to CALRECYCLE, nor shall
3 RESPONDENT state, imply, or otherwise indicate that it has
4 any connection, of any kind, to CALRECYCLE.

5 3. Failure to pay the full \$35,000.00 prior to the expiration of the abeyance
6 period shall constitute a full default of this Stipulation.

7 ii) \$ 70,500.00 of this administrative penalty shall be held for an abeyance
8 period of at least two and a half years but no more than five years based on the terms set
9 forth below. The stayed penalty shall be deemed terminated and shall not be paid by
10 RESPONDENT to CALRECYCLE following the expiration of the abeyance period absent a
11 default as described. At the end of two and a half years following the issuance of this
12 Stipulation's corresponding Decision, and contingent upon RESPONDENT not having
13 defaulted on either a full-default or the manifesting error rate term of this Stipulation, the
14 abeyance period shall expire upon RESPONDENT's final payment of the \$35,000.00 owed.

15 (b) RESPONDENT shall not open or operate a WTF at which any number of waste,
16 used, or new tires are stored, accumulated, or stockpiled, in California during the abeyance
17 period. Failure to comply with this term shall constitute a full default of this Stipulation.

18 (c) If RESPONDENT opens or operates a WTF in violation of paragraph 20(b)
19 above, CALRECYCLE shall inspect said facility at a frequency determined by CALRECYCLE
20 for the remainder of the abeyance period, or until, no waste, used or new tires remain onsite
21 and RESPONDENT has completely removed itself from the location, whichever is first. If the
22 violation continues beyond the abeyance period CALRECYCLE shall continue to inspect the
23 WTF at a frequency determined by CALRECYCLE until the violation ceases. RESPONDENT
24 shall be responsible for reimbursing CALRECYCLE for the cost of those inspections, in
25 accordance with the inspection and reimbursement terms set forth in subparagraph (d) of this
26 Stipulation below.

27 (d) RESPONDENT shall grant CALRECYCLE inspectors, or any agent designated
28 by CALRECYCLE, access to the site for the purpose of conducting the additional inspections

described in subparagraph (c) above, and RESPONDENT shall reimburse CALRECYCLE for the cost of these additional inspections (including costs for the time spent preparing for the inspection, traveling to the site, and preparing and writing any Inspection Report). Additionally, after compliance has again been regained, CALRECYCLE shall inspect the site twice a year for the remainder of the abeyance period, and RESPONDENT shall reimburse CALRECYCLE for the costs of these additional inspections (including costs for the time spent preparing for the inspection, traveling to the site, and preparing and writing any Inspection Report).

i. Failure to grant access to inspectors or agents designated by CALRECYCLE, or failure to reimburse CALRECYCLE for the costs of an additional inspection within 30 days of an invoice shall be deemed a default of this Stipulation.

ii. The cost of the additional inspections shall be billed at the rate approved by CALRECYCLE's accounting and budgets offices for enforcement agent inspections for that fiscal year.

(e) RESPONDENT shall not haul waste, used, or new tires within the State of California for a period of one month, beginning on October 1, 2012, except in the following instances:

i. RESPONDENT may haul waste, used or new tires from military bases which RESPONDENT is currently contractually obligated to remove. Within 30 days of the issuance of the corresponding Decision, RESPONDENT shall provide CALRECYCLE with a list of those specific military bases in writing. All waste, used or new tires hauled pursuant to this subparagraph shall be manifested in accordance with PRC section 42965.1 and 14 CCR section 18450 et seq.

ii. RESPONDENT may haul waste tires that are commingled with solid waste and which constitute only an incidental part of the load of solid waste being hauled.

iii. RESPONDENT may haul waste tires to Mistubishi Cement Corp (Mitsubishi).

iv. RESPONDENT may subcontract with another waste and used tire hauler possessing a valid waste and used tire hauler registration from CALRECYCLE to fulfill its

1 financial obligations if necessary under paragraph 20(a) above.

2 v. Failure to comply with this paragraph shall constitute a full default of this
3 Stipulation.

4 (f) For a one-year period following the issuance of the corresponding Decision,
5 RESPONDENT shall not pick-up from or deliver waste, used, or new tires to any new
6 customers within the State of California. For that same one-year period, but beginning on
7 November 1, 2012, RESPONDENT may pick-up from or deliver waste, used, or new tires to its
8 existing customers. Failure to comply with this term shall constitute a full default of this
9 Stipulation.

10 (g) Within 30 days of the issuance of the corresponding Decision, RESPONDENT
11 shall provide CALRECYCLE with a list of existing customers in the State of California.
12 RESPONDENT shall update the list within 30 days of the acquisition of new customers or the
13 removal of prior existing customers. Failure to comply with this term shall constitute a full
14 default of this Stipulation.

15 (h) Within the first five days of each calendar month, RESPONDENT shall provide
16 CALRECYCLE with a log of waste, used, or new tires picked up from or delivered to any
17 existing or new customer in the state of California. The log shall include the total number of
18 waste, used, or new tires picked up from customers in the state of California, the total number
19 of waste, used, or new tires delivered to customers in the state of California, the names of
20 customers from which or to which waste, used, or new tire were delivered or picked up, and
21 the amount of waste, used, or new tires and their destination for any loads shipped through
22 California that did not originate from or end at a location in California for the previous month.
23 Failure to comply with this term shall constitute a full default of this Stipulation.

24 (i) RESPONDENT shall maintain a manifest error rate of 5% or less for the
25 abeyance period.

26 (j) RESPONDENT shall comply with all other laws related to waste tire haulers set
27 forth in PRC 42950 et seq., and Title 14 of the CCR.

1 21. Default: If RESPONDENT defaults under any of the terms of this Stipulation,
2 CALRECYCLE shall send a Notice of Default to RESPONDENT; said Notice of Default shall
3 state the paragraphs or provisions of this Stipulation of which RESPONDENT are in default
4 and the abeyance amount owed. RESPONDENT shall have 20 days from the date of the
5 issuance of the Notice of Default to provide evidence refuting CALRECYCLE's claim of default.
6 After a review of the evidence provided by RESPONDENT, CALRECYCLE shall make a
7 determination regarding the default and, if appropriate, shall issue a Supplemental Decision
8 regarding any remaining penalties due. If RESPONDENT disagrees with CALRECYCLE's
9 determination, following service of the Supplemental Decision, RESPONDENT may file a writ
10 challenging that determination in Superior Court.

11 22. Unless otherwise specified in the subsections above, failure to comply with any
12 of the above terms shall constitute a partial default of this Stipulation and the abeyance
13 amount determined by CALRECYCLE shall become immediately due and payable by
14 RESPONDENT.

15 (a) CALRECYCLE shall base any abeyance amount due on the penalty amounts set
16 forth in PRC section 42962, and 14 CCR section 18464, taking into account the nature,
17 circumstances, extent and gravity of the partial default.

18 (b) If RESPONDENT is ordered to pay a partial default fine and fails to do so within
19 30 days, the failure shall constitute a full default and the remaining amount of \$105,000.00,
20 less any amount already paid to CALRECYCLE, shall become immediately due and payable.

21 (c) If RESPONDENT is found in default of a term which designates a full default as
22 its consequence, RESPONDENT shall be ordered to immediately pay the full penalty amount
23 of \$105,000.00 dollars less any amount already paid to CALRECYCLE.

24 23. No covenant, promise, term, condition, breach or default of or under this
25 Stipulation shall be deemed to have been waived except as expressly so stated in writing
26 by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by RESPONDENT
27 under this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or
28 default by RESPONDENT.

1 24. RESPONDENT has freely and voluntarily entered into this Stipulation and has
2 been afforded the opportunity to consult with counsel prior to entering into this Stipulation. It is
3 expressly understood and agreed that no representations or promises of any kind, other than
4 as contained herein, have been made by any party to induce any other party to enter into this
5 Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise
6 changed except by a writing executed by each of the parties hereto. Each party hereto agrees
7 to execute and deliver any and all documents and to take any and all actions necessary or
8 appropriate to consummate this Stipulation and to carry out its terms and provisions.

9 25. Except as expressly provided herein, RESPONDENT waives the right in the
10 entitled matter to a hearing, any and all appeals, and any and all rights that may be
11 afforded pursuant to the PRC, the Administrative Procedure Act, or any other provision of law
12 regarding the express provisions of this Stipulation.

13 26. This Stipulation shall be binding and inure to the benefit of the successors, heirs
14 and assigns of the respective parties hereto.

15 27. This Stipulation and the corresponding Administrative Decision to be issued
16 constitute the entire understanding of the parties concerning the settlement of this proceeding.
17 There are no restrictions, promises, warranties, covenants, undertakings, or representations
18 other than those expressly set forth herein or contained in separate written documents
19 delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it
20 has not relied upon any restrictions, promises, warranties, covenants, undertakings, or
21 representations other than those expressly contained herein.

22 28. For purposes of this Stipulation, facsimile signatures will be treated as originals
23 until the applicable page(s) bearing non-facsimile signatures have been received by
24 CALRECYCLE.

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1 29. The effective date of this Stipulation is the date of issuance of the Administrative
2 Decision.

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5 Dated: 9/26/12


MARK DE BIE
Deputy Director
DEPARTMENT OF RESOURCES RECYCLING
AND RECOVERY (CALRECYCLE)

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9
10 Dated: 9-13-12


HEATHER L. HUNT
Staff Counsel III
DEPARTMENT OF RESOURCES RECYCLING
AND RECOVERY (CALRECYCLE)

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17 Dated: 9/13/12


NORBERTO MADRIGAL
Representative
LUNAS CONSTRUCTION CLEAN-UP, INC.